

# United States Senate

WASHINGTON, DC 20510

COMMITTEES:  
ARMED SERVICES  
ENERGY AND NATURAL RESOURCES  
INTELLIGENCE  
JOINT ECONOMIC

June 3, 2021

The Honorable Michael Regan  
Administrator  
United States Environmental Protection Agency  
1200 Pennsylvania Avenue NW  
Washington, D.C. 20004

Dear Administrator Regan:

I write to bring your attention to an important air quality permit decision pending before the Texas Commission on Environmental Quality (TCEQ). The TCEQ will soon decide whether to grant El Paso Electric (EPE) the air quality permit it would need to install a new 228 MW natural gas combustion turbine at the Newman Power Station in El Paso County, Texas, near the New Mexico-Texas border. We know that air pollution emissions from El Paso affect communities in New Mexico, and that air quality in both El Paso and Doña Ana Counties has been getting worse in the past several years.<sup>1</sup> I am concerned that if TCEQ grants EPE's air quality permit, the people of Doña Ana County, New Mexico and surrounding areas will be exposed to increased levels of air pollution in a region with already poor air quality. EPA's recent decision to designate El Paso County as part of the El Paso-Las Cruces nonattainment area for the 2015 NAAQS Ozone standard<sup>2</sup> may call into question TCEQ's ability to grant this permit. I urge the EPA to evaluate whether El Paso Electric's air quality permit must take into account EPA's new designation and advise the TCEQ and the Texas State Office of Administrative Hearings as soon as possible.

El Paso Electric serves over 430,000 customers in west Texas and southern New Mexico. Consequently, the New Mexico Public Regulation Commission (PRC) and the Public Utility Commission of Texas jointly oversee air quality permitting decisions. In 2020, the PRC unanimously rejected EPE's permit on the grounds that the utility did not account for New Mexico's mandate to provide 100% carbon-free electricity by 2045 when considering bids for its 2022-2023 generation mix. The City Council of El Paso also opposed the permit, citing increased costs that would be borne by El Paso ratepayers and that the additional gas turbine

<sup>1</sup> Texas Commission on Environmental Quality, "Compliance with Eight-Hour Ozone Standard," last accessed June 1, 2021, [https://www.tceq.texas.gov/cgi-bin/compliance/monops/8hr\\_attainment.pl](https://www.tceq.texas.gov/cgi-bin/compliance/monops/8hr_attainment.pl).

<sup>2</sup> United States Environmental Protection Agency, "El Paso-Las Cruces TX-NM Intended Area Designations for the 2015 Ozone National Ambient Air Quality Standards Technical Support Document (TSD) for Counties Remanded to EPA," last accessed June 1, 2021, [https://www.epa.gov/sites/production/files/2021-05/documents/final\\_clean\\_el\\_paso-las\\_cruces\\_tsd\\_remand.pdf](https://www.epa.gov/sites/production/files/2021-05/documents/final_clean_el_paso-las_cruces_tsd_remand.pdf).

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would “not likely be needed by 2023” when it would be scheduled to commence operations.<sup>3</sup> I too share these concerns.

El Paso Electric’s continued reliance on fossil fuels will lock-in decades of dangerous air pollution emissions in an area already facing some of the worst air pollution in the country. The American Lung Association ranked the El Paso-Las Cruces area 13<sup>th</sup> out of 226 metropolitan areas nationwide for high ozone days.<sup>4</sup> As noted by concerned citizens and environmental organizations, the additional turbine has an expected life span of at least 40 years and paying for the plant itself will likely cost ratepayers millions in stranded assets.<sup>5</sup> Analogously, Duke Energy, one of the largest utilities in the country, recently announced plans to build 9,600 MW of natural gas-fired generation capacity in the Carolinas. Reporting found that these investments could potentially leave ratepayers with \$4.8 billion in stranded fossil fuel assets through 2074.<sup>6</sup> Additionally, new gas-fired generation capacity is out of step with President Biden’s goal of reaching net-zero carbon emissions by 2050. New gas turbines installed today will soon become the legacy technology of the future, while continuing to exacerbate harmful air pollution and the climate crisis.

On June 3rd, the Texas State Office of Administrative Hearings (SOAH) will consider whether TCEQ should delay its decision or potentially fast track the permit approval process. Given the urgency of the climate crisis and EPA’s recent nonattainment designation, I request you weigh in on this review of the permitting process as soon as possible with your evaluation of whether El Paso Electric’s air quality permit must take into account EPA’s new ozone nonattainment designation for the region.

Thank you for your prompt attention to this matter.

Sincerely,  
  
MARTIN HEINRICH  
United States Senator

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<sup>3</sup> Vic Kolenc, “El Paso City Council Reaffirms Opposition to El Paso Electric Power Plant Project,” October 14, 2020, *The El Paso Times*, last accessed June 1, 2021, <https://www.elpasotimes.com/story/news/2020/10/14/el-paso-city-council-reaffirms-opposition-to-el-paso-electric-newman-power-plant-project/3642579001/>.

<sup>4</sup> American Lung Association, State of the Air Report Card for the El Paso-Las Cruces TX-NM Metropolitan Statistical Area, last accessed June 1, 2021, <https://www.lung.org/research/sota/city-rankings/msas/el-paso-las-cruces-tx-nm#ozone>.

<sup>5</sup> Claudia Silva, “Chaparral Residents Seek Alternative to New El Paso Electric Natural Gas Unit,” May 19, 2021, *New Mexico in Depth*, last accessed June 1, 2021, <https://nmpoliticalreport.com/2021/05/19/chaparral-residents-seek-alternative-to-new-el-paso-electric-natural-gas-unit/>.

<sup>6</sup> Catherine Morehouse, “Duke Stranded Gas Assets Could Cost Customers \$4.8B, Report Finds,” January 26, 2021, *UtilityDive*, last accessed June 1, 2021, <https://www.utilitydive.com/news/duke-stranded-gas-assets-could-cost-customers-48b-report-finds/593939/>.